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FILED
U.S. DISTRICT COURT
2005 JUN 20 P 4:45
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

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International Business Machines Corporation

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

THE SCO GROUP, INC.

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Defendant/Counterclaim-Plaintiff.

DECLARATION OF
AMY F. SORENSON IN SUPPORT OF
IBM'S MOTION FOR PARTIAL
SUMMARY JUDGMENT ON ITS
COUNTERCLAIM FOR COPYRIGHT
INFRINGEMENT (EIGHTH
COUNTERCLAIM) AND UNSEALED
EXHIBITS THERETO
[Docket Nos. 237, 238 and 239]

Civil No. 2:03CV0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

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FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH
AUG 16 2004
BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.,

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant/Counterclaim-Plaintiff.

**DECLARATION OF AMY F. SORENSON
IN SUPPORT OF
IBM'S MOTION FOR PARTIAL
SUMMARY JUDGMENT ON ITS
COUNTERCLAIM FOR
COPYRIGHT INFRINGEMENT
(EIGHTH COUNTERCLAIM)**

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

I, Amy F. Sorenson, declare as follows:

1. I represent IBM in the lawsuit brought by SCO against IBM, titled The SCO Group, Inc. v. International Business Machines Corporation, Civil No. 2:03CV-0294 DAK (D. Utah 2003). This declaration is submitted in support of Defendant/Counterclaim-Plaintiff IBM's Motion for Partial Summary Judgment on its Counterclaim for Copyright Infringement (Eighth Counterclaim).

2. Submitted herewith are true and correct copies of the following documents:

(a) Exhibit 1 is a document titled "SCO Linux Introduction, Version 1.2", bates numbered SCO1355589-SCO1355653.

(b) Exhibit 2 is SCO's Answer to IBM's Second Amended Counterclaims, dated April 23, 2004.

(c) Exhibit 3 is material printed from SCO's website, available at <http://www.sco.com/developers/community/contrib/> and <http://www.sco.com/developers/community/contrib/linux.html>, identifying various SCO contributions to Linux.

(d) Exhibit 4 is the Form 10-K/A filed by Caldera Systems, Inc., without exhibits, for the fiscal year ending October 31, 2000.

(e) Exhibit 5 is a copy of U.S. Copyright Registration Statement No. TX 5-757-696, registering IBM's copyright to its work titled "Enterprise Volume Management System".

(f) Exhibit 5.1 is a copy of IBM's copyrighted work titled "Enterprise Volume Management System".

(g) Exhibit 5.2 is a copy of files from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(h) Exhibit 5.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Declaration of Kathleen Bennett In Support of IBM's Motion for Partial Summary Judgment On Its Counterclaim for Copyright Infringement (Eighth Counterclaim), dated August 16, 2004 ("Bennett Declaration").

(i) Exhibit 6 is a copy of U.S. Copyright Registration Statement No. TX 5-757-697, registering IBM's copyright to its work titled "Enterprise Class Event Logging".

(j) Exhibit 6.1 is a copy of portions of IBM's copyrighted work titled "Enterprise Class Event Logging".

(k) Exhibit 6.2 is a copy of files from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(l) Exhibit 6.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(m) Exhibit 7 is a copy of U.S. Copyright Registration Statement No. TX 5-757-698, registering IBM's copyright to its work titled "Dynamic Probes".

(n) Exhibit 7.1 is a copy of portions of IBM's copyrighted work titled "Dynamic Probes".

(o) Exhibit 7.2 is a copy of files from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(p) Exhibit 7.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(q) Exhibit 8 is a copy of U.S. Copyright Registration Statement No. TX 5-757-699, registering IBM's copyright to its work titled "Linux Support Power PC64".

(r) Exhibit 8.1 is a copy of IBM's copyrighted work titled "Linux Support Power PC64".

(s) Exhibit 8.2 is a copy of files from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(t) Exhibit 8.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(u) Exhibit 9 is a copy of U.S. Copyright Registration Statement No. TX 5-757-700, registering IBM's copyright to its work titled "Omni Print Driver".

(v) Exhibit 9.1 is a copy of portions of IBM's copyrighted work titled "Omni Print Driver".

(w) Exhibit 9.2 is a copy of files from Open Linux 3.1.1 Asia, as produced to IBM through discovery in this case.

(x) Exhibit 9.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(y) Exhibit 10 is a copy of U.S. Copyright Registration Statement No. TX 5-757-701, registering IBM's copyright to its work titled "Journaled File System".

(z) Exhibit 10.1 is a copy of IBM's copyrighted work titled "Journaled File System".

(aa) Exhibit 10.2 is a copy of files from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(bb) Exhibit 10.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(cc) Exhibit 11 is a copy of U.S. Copyright Registration Statement No. TX 5-757-702, registering IBM's copyright to its work titled "Next Generation Posix Threading".

(dd) Exhibit 11.1 is a copy of IBM's copyrighted work titled "Next Generation Posix Threading".

(ee) Exhibit 11.2 is a copy of files from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(ff) Exhibit 11.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(gg) Exhibit 12 is a copy of U.S. Copyright Registration Statement No. TX 5-856-466, registering IBM's copyright to its work titled "Linux Kernel Support for JFS".

(hh) Exhibit 12.1 is a copy of IBM's copyrighted work titled "Linux Kernel Support for JFS".

(ii) Exhibit 12.2 is a copy of files from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(jj) Exhibit 12.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(kk) Exhibit 13 is a copy of U.S. Copyright Registration Statement No. TX 5-856-467, registering IBM's copyright to its work titled "Linux Kernel S390 Support".

(ll) Exhibit 13.1 is a copy of IBM's copyrighted work titled "Linux Kernel S390 Support".

(mm) Exhibit 13.2 is a copy of files from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(nn) Exhibit 13.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(oo) Exhibit 14 is a copy of U.S. Copyright Registration Statement No. TX 5-856-468, registering IBM's copyright to its work titled "Linux Kernel Support for Service Processor".

(pp) Exhibit 14.1 is a copy of IBM's copyrighted work titled "Linux Kernel Support for Service Processor".

(qq) Exhibit 14.2 is a copy of files from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(rr) Exhibit 14.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(ss) Exhibit 15 is a copy of U.S. Copyright Registration Statement No. TX 5-856-469, registering IBM's copyright to its work titled "Linux Kernel Support for Memory Expansion Technology".

(tt) Exhibit 15.1 is a copy of IBM's copyrighted work titled "Linux Kernel Support for Memory Expansion Technology".

(uu) Exhibit 15.2 is a copy of a file from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(vv) Exhibit 15.3 is a copy of a file downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(ww) Exhibit 16 is a copy of U.S. Copyright Registration Statement No. TX 5-856-470, registering IBM's copyright to its work titled "Linux Kernel Support for IBM eServer iSeries Device".

(xx) Exhibit 16.1 is a copy of IBM's copyrighted work titled "Linux Kernel Support for IBM eServer iSeries Devices".

(yy) Exhibit 16.2 is a copy of files from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(zz) Exhibit 16.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(aaa) Exhibit 17 is a copy of U.S. Copyright Registration Statement No. TX 5-856-471, registering IBM's copyright to its work titled "Linux Kernel Support for PCI Hotplug".

(bbb) Exhibit 17.1 is a copy of IBM's copyrighted work titled "Linux Kernel Support for PCI Hotplug".

(ccc) Exhibit 17.2 is a copy of a file from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(ddd) Exhibit 17.3 is a copy of a file downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(eee) Exhibit 18 is a copy of U.S. Copyright Registration Statement No. TX 5-856-472, registering IBM's copyright to its work titled "Linux Kernel Support for Series Hypervisor Terminal".

(fff) Exhibit 18.1 is a copy of IBM's copyrighted work titled "Linux Kernel Support for pSeries Hypervisor Terminal".

(ggg) Exhibit 18.2 is a copy of a file from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(hhh) Exhibit 18.3 is a copy of a file downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(iii) Exhibit 19 is a copy of U.S. Copyright Registration Statement No. TX 5-856-473, registering IBM's copyright to its work titled "Linux Kernel PPC64 Support".

(jjj) Exhibit 19.1 is a copy of IBM's copyrighted work titled "Linux Kernel PPC64 Support".

(kkk) Exhibit 19.2 is a copy of files from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(lll) Exhibit 19.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(mmm) Exhibit 20 is a copy of U.S. Copyright Registration Statement No. TX 5-856-474, registering IBM's copyright to its work titled "Linux Kernel Support for Mwave Modem".

(nnn) Exhibit 20.1 is a copy of IBM's copyrighted work titled "Linux Kernel Support for Mwave Modem".

(ooo) Exhibit 20.2 is a copy of files from SCO Linux Server 4.0, as produced to IBM through discovery in this case.

(ppp) Exhibit 20.3 is a copy of files downloaded from SCO's Internet website on January 9, 2004, as described in the accompanying Bennett Declaration.

(qqq) Exhibit 21 is excerpts from Exhibit 3(a) to the 30(b)(6) deposition of Eric W. Hughes, dated May 11, 2004.

(rrr) Exhibit 22 is SCO's Response to IBM's Third Set of Interrogatories, dated April 19, 2004.

(sss) Exhibit 23 is excerpts from the 30(b)(6) Deposition of Christopher Sontag, dated May 12, 2004.

(ttt) Exhibit 24 is excerpts from the 30(b)(6) Deposition of Erik W. Hughes, dated May 11, 2004.

(uuu) Exhibit 25 SCO's Amended Answer to IBM's Amended Counterclaims, dated March 11, 2004.

(vvv) Exhibit 26 is the GNU Lesser General Public License.

(www) Exhibit 27 is the GNU General Public License.

(xxx) Exhibit 28 is a letter from SCO to IBM, dated May 12, 2003.

(yyy) Exhibit 29 is a SCO press release titled "SCO Suspends Distribution of Linux Pending Intellectual Property Clarification; Announces Greater Focus on UNIX and SCOx Strategy", dated May 14, 2003.

(zzz) Exhibit 30 is a SCO press release titled "SCO Registers UNIX Copyrights and Offers UNIX License", dated July 21, 2003.

(aaaa) Exhibit 31 is a SCO press release titled "SCO Announces Intellectual Property License for Linux", dated August 5, 2003.

(bbbb) Exhibit 32 is a document titled "The SCO Group, Inc. Intellectual Property Compliance License for SCO UNIX [*sic*] Rights", bates numbered SCO1304158-65.

(cccc) Exhibit 33 is a document titled "Purchase Order", bates numbered SCO1448148.

(dddd) Exhibit 34 is a document titled "The SCO Group, Inc. Intellectual Property Compliance License for Linux", bates numbered SCO1448558-65.

(eeee) Exhibit 35 is a SCO press release titled "SCO Announces New Initiatives to Enforce Intellectual Property Rights", dated December 22, 2003.

(ffff) Exhibit 36 is a form letter from R. Tibbitts to "Linux User", dated December 19, 2003.

(gggg) Exhibit 37 is a letter from SCO to Lehman Brothers Holdings, Inc., dated January 16, 2004, and bates numbered SCO1448018.

(hhhh) Exhibit 38 is a document titled "The SCO Group, Inc. Intellectual Property License", bates numbered SCO1507766-75.

(iiii) Exhibit 39 is the complaint filed on March 3, 2004 by SCO against AutoZone, Inc., in the United States District Court for the District of Nevada, titled The SCO Group, Inc. v. AutoZone, Inc., Case No. CV-S-04-0237 (D. Nev.).

(jjjj) Exhibit 40 is an article by Graeme Wearden titled "SCO may raise 'Linux' license fees", from CNET News.com, dated August 10, 2004.

(kkkk) Exhibit 41 is material printed from SCO's website, available at <http://www.sco.com/scosource>.

3. Because they consist of large volumes of source code, Exhibits 5.1-5.3, 6.1-6.3, 7.1-7.3, 8.1-8.3, 9.1-9.3, 10.1-10.3, 11.1-11.3, 12.1-12.3, 13.1-13.3, 14.1-14.3, 15.1-15.3, 16.1-16.3, 17.1-17.3, 18.1-18.3, 19.1-19.3, and 20.1-20.3 are submitted on the accompanying CD. One nine-box set of these exhibits in hard copy form is also submitted for filing herewith.

4. The documents attached as Addenda A through P to the Memorandum in Support of IBM's Motion for Partial Summary Judgment on its Counterclaim for Copyright Infringement (Eighth Counterclaim) are true and correct copies of tables indicating the lines of source code from IBM's copyrighted works that appear verbatim and are identical to code in SCO's products.

5. The document attached as Addendum Q to the Memorandum in Support of IBM's Motion for Partial Summary Judgment on its Counterclaim for Copyright Infringement (Eighth Counterclaim) is a true and correct copy of a side-by-side comparison of code from the `hvc_console.c` file as it appears in IBM's "pSeries Hypervisor Terminal" copyrighted work (left side) and SCO Linux Server 4.0 (right side). Matching lines are highlighted in yellow.


6. The document attached as Addendum R to the Memorandum in Support of IBM's Motion for Partial Summary Judgment on its Counterclaim for Copyright Infringement (Eighth Counterclaim) is a true and correct copy of a side-by-side comparison of code from the `hvc_console.c` file as it appears in IBM's "pSeries Hypervisor Terminal" copyrighted work (left side) and as downloaded from SCO's website as described in the accompanying Bennett Declaration (right side). Matching lines are highlighted in yellow.

7. True and correct copies of Exhibits 1, 21, 23, 24, 32, 33, 34, 37, and 38 are filed separately under seal pursuant to the protective order in this case.

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed: August ^{16th}, 2004.

Salt Lake City, Utah



Amy F. Sorenson

CERTIFICATE OF SERVICE

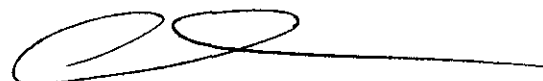
I hereby certify that on the 16th day of August, 2004, a true and correct copy of the foregoing, with exhibits, was hand delivered to the following:

Brent O. Hatch
Mark F. James
HATCH, JAMES & DODGE, P.C.
10 West Broadway, Suite 400
Salt Lake City, Utah 84101

and was sent by U.S. Mail, postage prepaid, to the following:

Stephen N. Zack
Mark J. Heise
BOIES, SCHILLER & FLEXNER LLP
100 Southeast Second Street, Suite 2800
Miami, Florida 33131

Robert Silver
BOIES, SCHILLER & FLEXNER LLP
333 Main Street
Armonk, New York 10504

A handwritten signature in black ink, appearing to read 'Amy F. Sorenson', written over a horizontal line.

Amy F. Sorenson


CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of June, 2005, a true and correct copy of the foregoing was sent by U.S. Mail, postage prepaid, to the following:

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Amy F. Sorenson